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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 001591

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SUBJECT: NATIONALIST GROUP REQUESTS PROSECUTION OF KRG
PRESIDENT BARZANI

Classified By: PolCouns Janice G. Weiner for reasons 1.4 (b) and (d).

This is a joint Consulate Adana/Embassy Ankara cable.

1. (C) Summary: A nationalist group in Diyarbakir has filed a petition with the provincial prosecutor's office requesting that charges be brought against KRG President Barzani and members of his family. The petition accuses the Barzanis of providing support and safe-haven for PKK terrorists in Iraq. While a Turkish MFA official agreed that the case is weak and clearly politically motivated, the prosecutor is obliged to investigate. An actual case cannot be opened until the investigation is complete. It may also raise uncomfortable questions for the GOT on the issue of the KRG's legal status under Turkish law. End summary.

2. (SBU) The President of the Diyarbakir branch of the Ataturkist Thought Association (Turkish acronym ADD), a nationalist organization that frequently initiates legal actions against writers and intellectuals, has filed a petition of complaint with the Chief Public Prosecutor of Diyarbakir against KRG President Masoud Barzani and members of his family. The complaint accuses Barzani of assisting and harboring PKK terrorists and recommends freezing Mr. Barzani's assets in Turkey. The ADD also asked the prosecutor to request Interpol to issue an international warrant for Barzani's arrest.

3. (C) Two Diyarbakir human rights lawyers, Arif Altunkalem and Sezgin Tanrikulu (please protect), told Consulate Adana June 19 that, although there was no legal foundation to the complaint, they believed the provincial Public Prosecutor was making preparations to initiate an investigation. Ultimately, Tanrikulu said he doubted the courts would actually initiate legal action against Barzani and that the purpose of the complaint is to fuel public hostility towards the Iraqi Kurds in order to boost the popularity of nationalist candidates in the upcoming Turkish election.

4. (C) Ankara-based senior attorney Yusuf Alatas (also protect), Chairman of Turkey's Human Rights Association, told us June 21 that for some time the judiciary has been, in his view, taking orders from nationalist politicians (no doubt referring to the Constitutional Court's May 1 ruling in favor

of the Republican Peoples Party's petition regarding the presidential election, which compelled the GOT to call early elections). This case against Barzani is "no accident," he said.

15. (C) These attorneys believe that Barzani, as president of a federal Iraqi structure, ought to benefit under international law from head of state immunity, but the Turkish Penal Code (TPC) does not seem to exempt him from prosecution. The TPC does require the Justice Ministry to approve prosecution of foreigners for most crimes. However, it does not require this for certain categories of especially serious offenses, including acts endangering state security. Nor does it appear likely that the Turkish courts would recognize the KRG's legal status, even though it is clearly envisioned in the Iraqi constitution. MFA officials have told us informally that Turkey is awaiting the results of Iraq's constitutional review process before making a decision on recognizing the KRG. In truth, GOT recognition of the KRG is a sensitive political decision that the government will not touch before July 22 elections and likely for some time after that.

16. (C) We raised the case with MFA Head of Section for Iraq Aydin Selcen on June 21. Selcen agreed that the petition was poorly timed, legally weak, politically based, and does nothing to calm tensions between Turkey and the Iraqi Kurds. However, he emphasized that the GOT cannot control the judicial system, and that the prosecutor is obliged to investigate all petitions brought to his attention, frivolous or not.

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